

Serial No.: 10/814,973
Amdt. dated 25 January 2006
Reply to Office Action of 8 September 2005

REMARKS

As noted previously, the Applicants appreciate the Examiner's thorough examination of the subject application.

Claims 1-20 are currently pending in the application. Claims 1-3 and 13-20 were rejected in the Office Action mailed 08 September 2005. Claims 4-12 were objected to for depending from a rejected base claim but were indicated as being allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. By the present amendment, claim 1 has been amended herein to include limitations of original claim 4, which has been cancelled. Claim 5 has been amended to depend from claim 1.

Applicants respectfully traverse the claim rejections and request reconsideration of the claims based on the foregoing amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 102

Concerning items 3-4 of the Office Action, the Examiner rejected claims 1 and 13-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,572,783 to Watson, et al. ("Watson"). The Applicants respectfully traverse this rejection for the following reasons.

For a rejection under 35 U.S.C. § 102(b), the cited reference must teach all of the limitations as arranged in the rejected claim(s). In this situation, Watson does not teach all of the limitations as arranged in independent claim 1 (from which claims 13-20 depend).

Independent claim 1 has been amended to include limitations of original claim 4 and now recites:

A valve assembly for controlling the flow of a predetermined fluid, comprising: a tube having an open end forming an outlet port of the valve assembly, and wherein the tube is made of a material that is porous with

Serial No.: 10/814,973
Amdt. dated 25 January 2006
Reply to Office Action of 8 September 2005

respect to the predetermined fluid; an outer wall forming a fluid chamber coaxially surrounding the porous tube and including an inlet port of the valve assembly; a valve member made of non-porous material with respect to the predetermined fluid and received for sliding movement within the porous tube, wherein sliding movement of the valve member within the tube and towards the open end of the tube reduces flow of the predetermined fluid from the fluid chamber, through the porous tube and through the outlet of the valve assembly, while sliding movement of the valve member within the tube and away from the open end of the tube increases flow of the predetermined fluid from the fluid chamber, through the porous tube and through the outlet of the valve assembly; and an actuator connected to the valve member for causing sliding movement of the valve member within the porous tube.

[Emphasis added]

In contrast, Watson teaches a cyclonic separator with screen and ball check for separating entrained matter from a fluid stream under pressure. *See* Watson, Abstract. A fluid vortex formed by the flow of fluid inside the Watson separator separates entrained matter from the fluid. The separated entrained matter accumulates in the bottom area of the frusto-conical part of the separator and acts to force the ball check upward, eventually blocking an outlet pipe when sufficient entrained matter accumulates. *See* Watson, col. 4, lines 37-61. Watson teaches that the “spherical float is made of a suitable material such as stainless steel and is positively buoyant with respect to the entrained matter.” Col. 4, lines 10-13. *See* Watson, col. 2, line 53. For the cyclonic separator of Watson, it is the buoyancy of the spherical float with respect to the entrained matter that moves the spherical float within the cylindrical screen as entrained matter accumulates. Consequently, Watson does not teach an actuator connected to a valve member for controlling the position of the valve member, and thus controlling fluid flow rate through the associated valve, as does the valve assembly recited in amended claim 1.

For the preceding reasons, Watson does not teach or suggest each and every limitation as arranged in claim 1, which is therefore patentable over Watson. Because claims 13-20 depend from claim 1 they are patentable for at least the same reasons. Watson is consequently an improper basis

Serial No.: 10/814,973
Amdt. dated 25 January 2006
Reply to Office Action of 8 September 2005

for a rejection of claims 1 and 13-20 under 35 U.S.C. § 102(b) and the rejection should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Concerning items 5-6 of the Office Action, the Examiner rejected claims 2 and 3 (which depend from claim 1) under 35 U.S.C. 103(a) as being unpatentable over Watson in view of U.S. Patent No. 5,273,561 to Zeren et al. ("Zeren") and U.S. Patent No. 5,533,545 to Robinson et al. ("Robinson"). Applicants traverse this rejection for the following reasons.

For a rejection under 35 U.S.C. § 103(a), the cited reference(s) must teach or suggest all of the limitations as arranged in the rejected claim(s). In this situation, the combination of references fails to teach or suggest all of the limitations as arranged in claims 5 and 6. Neither Zeren nor Robinson, considered individually or in combination, teach or suggest the deficiencies noted above for Watson, i.e., "an actuator connected to the valve member for causing sliding movement of the valve member within the porous tube" as recited in claim 1. As a result, the combination of Watson in view of Zeren and Robinson fails to teach or suggest all of the limitations of independent claim 1, which is therefore patentable over these cited references. Because claims 2 and 3 depend from claim 1 they are patentable for at least the same reasons as claim 1. The rejection of claims 2 and 3 under 35 U.S.C. § 103(a) is without proper basis and should therefore be withdrawn.

Allowable Subject Matter

Concerning item 7 of the Office Action, the Examiner objected to claims 4-12 but noted that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, the limitations of original claim 4 have been added to the base claim, claim 1, and claim 5 has been amended to depend from claim 1. Claim 4 has been canceled.

Serial No.: 10/814,973
Amdt. dated 25 January 2006
Reply to Office Action of 8 September 2005

Conclusion

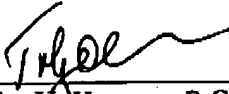
In view of the amendments and remarks submitted herein, Applicants respectfully submit that all of the claims now pending in the subject application are in condition for allowance, and therefore request a Notice of Allowance for the application.

The Commissioner is hereby authorized to charge a two-month extension fee of \$450.00, additional charges which may be due, or credit any overpayments to deposit account 50-1133.

If the Examiner believes there are any outstanding issues to be resolved with respect to the above-identified application, the Examiner is invited to telephone the undersigned at their earliest convenience so that such issues may be resolved telephonically.

Respectfully submitted,

Date: 2-8-06


Toby H. Kusmer, P.C., Reg. No. 26,418
G. Matthew McCloskey, Reg. No. 47,025
McDermott Will & Emery LLP
28 State Street
Boston, MA 02109
V: (617) 535-4082
F: (617) 535-3800